

Management Board minutes

Monday 26 January 2015

Members and other attendees present

Ailsa Beaton	Non-executive Director
Simon Entwisle	Deputy Chief Executive Officer
Christopher Graham	Information Commissioner (chair)
Andrew Hind	Non-executive Director
David Smith	Deputy Commissioner Data Protection
Graham Smith	Deputy Commissioner Freedom of Information
Nicola Wood	Non-executive Director
Peter Bloomfield	Senior Corporate Governance Manager (secretariat)
Neil Bostock	Corporate Governance Officer (secretariat)

1. Introductions and apologies

- 1.1. Nicola Wood was welcomed to her first Management Board meeting at the ICO.
- 1.2. There were apologies from Ian Watmore who was unable to attend the meeting.

2. Declaration of interests

- 2.1. Nicola Wood advised that she sits on the Health and Care Professions Council.
- 2.2. Nicola Wood suggested changes to the presentation of the current register of interests.

Action point 1: Peter Bloomfield to review the register of interest's policy and to report back to the next Management Board meeting.

3. Matters arising from the meeting of 20 October 2014

- 3.1. The minutes of the meeting of 20 October had been agreed in correspondence and were presented for information. There were no outstanding actions.
- 3.2. There was an update on the privacy seals work from David Smith. In response to the last meeting with the Non-executive Directors there had been a change in approach. The ICO was now considering a licensing approach to the provision of privacy seals as well as the possibility of agreeing to more than one provider. David Smith also reported that the involvement of a Non-executive Director on the panel selecting providers would be helpful. David would liaise with Non-executive Directors closer to the start of the bid evaluations.

4. Commissioner's forward look

- 4.1. Christopher Graham introduced his forward look highlighting issues affecting the work of the ICO. Many of the issues would be covered in more detail under different agenda items. However points specifically raised were:

Right to be forgotten

- 4.1.1. The ICO had received approximately 170 complaints about Google decisions on removing links from searches. This was fewer than originally anticipated. The ICO would make its first decisions shortly.

Data Protection Practitioners Conference

- 4.1.2. The ICO's major annual data protection conference was taking place on 2 March. The conference had been oversubscribed. Approximately 800 people would be attending.

Prince of Wales letters

- 4.1.3. Judgment was awaited in the Prince of Wales letter/veto case at the Supreme Court. Depending on the Judgment there could be an impact on use of both the Environmental Information Regulations and the Freedom of Information Act.

Privacy

- 4.1.4. Privacy issues arising from concerns about security and how to tackle terrorism were also discussed.
- 4.2. The risk register was considered further.

Accommodation

- 4.2.1. Accommodation in Wilmslow was highlighted in the register and Simon Entwisle provided an update. The space audit requested by the Ministry of Justice (MOJ) showed that desk and meeting rooms were under used, although floor space per person was well within government standards.
- 4.2.2. The MOJ wanted this under-use reflected by a reduction in the ICO's space requirement. However, there was also uncertainty over how many staff the ICO would need in the future. Firstly the on-going ICO triennial review might have an impact; and secondly the EU data protection regulation could have a larger impact on what the ICO did and hence on its staffing requirements.
- 4.2.3. It was noted that a MOJ hub in Manchester was proposed for 2020.

Apportionment model

- 4.2.4. Simon Entwisle updated the Board on the changes to the apportionment model which had recently been formally agreed by the MOJ and National Audit Office. Salaries of staff working on freedom of information work had to be paid for from grant in aid. However, there was more flexibility in how money was apportioned for support services.
- 4.2.5. The MOJ had recently asked for an in-year £50k reduction in grant in aid. Changes to the apportionment model meant that this request could be met without an adverse impact on services.
- 4.2.6. Pressure on the ICO to reduce its grant in aid requirement over the next few years was expected as the MOJ itself faced very tight financial settlements over the next few years.

Change in the Commissioner

- 4.2.7. The change in Commissioner, due summer 2016, was not on the risk register and it was asked whether it should be. Any new Commissioner would affect the working of the office as would a delay in appointing a new Commissioner. In the event of a delay Deputy Commissioners would temporarily fill the gap.

Action point 2: Peter Bloomfield to ensure Executive Team considers the inclusion of the change in Commissioner in the risk register.

- 4.3. In respect of the register it self, there was possibly a need for more robustness in setting the risk status wanted after future mitigating actions.

Action point 3: Peter Bloomfield to consider the setting of the risk status wanted after future mitigating actions.

5. Triennial Review

- 5.1. The ICO's public response to the consultation on the Triennial Review was presented for information. Board members were thanked for their input.
- 5.2. The response suggested the setting up of information rights advisory panels to engage with interested stakeholders and a more formal relationship with relevant Parliamentary Select Committees.
- 5.3. The review's Challenge Panel was meeting on 27 January to discuss initial findings from the review. The final report was due at the end of March. Any changes to the way the ICO worked would need to be taken forward by the new Government. However, the risk that the review might delay the appointment of a new Commissioner (because of uncertainty over the role) was real. The MOJ was aware of this risk.

6. Recruitment of the new Commissioner

- 6.1. Andrew Hind provided an update on the Non-executive Directors' meeting with Scott McPherson, Amanda Williams and Catherine Lee of the MOJ. The meeting had been called to provide the Non-executive Directors with an opportunity to give their views on the selection process for the new Commissioner. They had detailed knowledge of the ICO and had emphasised that the appointment had to be independent of Government.
- 6.2. Having a Non-executive Director on the recruitment panel was not thought to be precluded by Cabinet Office guidance, but ultimately it was a matter for Ministers. The matter had also been discussed at the recent MOJ liaison meeting.

Action point 4: Non-executive Directors to consider how to follow up their meeting with the MOJ on the recruitment of the new Commissioner in an informal way.

7. Staff engagement survey

- 7.1. The results of the staff survey were discussed and an update provided on pay negotiations with the FDA and PCS.
- 7.2. Suggestions included greater use of 360 degree reporting to help tease out management issues, development of an action plan to address issues raised (although it was recognised that this was difficult given the low response rate), and making clearer what staff needed to do if they thought they were being discriminated against, bullied or harassed.

8. ICO Plan 2015-2018 and Budget 2015/16

- 8.1. The draft ICO Plan for the three years starting in April and the budget for 2015/16 were presented for information. The Plan was not radically different from the current one. Both documents had been discussed with the MOJ. The intention was now to put the Plan out for a short consultation on the ICO website aimed at both external stakeholders and staff with the plan being finalised in early March.
- 8.2. It was clarified that where figures were given for specific enforcement action in the Plan; these were **not** targets.
- 8.3. It was suggested that analysis of complaint information to better inform priorities might fit under aim 6 of the Plan.
- 8.4. There was no indication as yet from the MOJ on the final grant in aid settlement. The budget would assume a £3.7m settlement covering freedom of information work pending any MOJ decision. Pressure to reduce grant in aid further was however expected.

Action point 5: Simon Entwisle to update the budget to reflect the £50k reduction in grant in aid and its impact on expected grant in aid next year; ie to £3.7m.

- 8.5. It was suggested that the amount of money collected by the issuing of civil monetary penalties could usefully be highlighted.

9. Performance against the ICO Plan

- 9.1. The report on performance against plan for quarter 3 was presented for information. The ICO was mainly on track to meet its objectives.
- 9.2. Points raised included whether or not the objectives could be more challenging, and the lack of management information in support of performance against action 3.4. In

the latter case it was hoped that more information would become available soon.

- 9.3. It was felt that the current scoring (red, amber or green) was a slightly blunt tool.

Action point 6: Peter Bloomfield to liaise with Simon Entwisle on future scoring for the report.

10. Finances

- 10.1. The income and expenditure report for December showed that registration fee income was 3% up on that originally expected.
- 10.2. The ICO was not expected to significantly underspend against budget as there was work ongoing to reduce future dilapidations, and IT projects were increasingly delivering changes and incurring expenditure.
- 10.3. The new finance system was expected to come on line at the end of February.

11. Issues reports

- 11.1. Reports covering areas of work across the ICO were provided for information.
- 11.2. Non-executive Directors were invited to the Spring Conference of European Data Protection Authorities taking place in May and being hosted in Manchester by the ICO.
- 11.3. It was noted that sickness absence was down and that the number of staff continued to increase.

12. Executive Team meetings

- 12.1. Minutes of Executive Team meetings since the last Management Board were presented for information.

13. Audit Committee

- 13.1. Minutes of the December Audit Committee were presented for information.

14. Remuneration Committee

- 14.1. Minutes of the November Remuneration Committee were presented for information. Work on the recruitment of a new Deputy Commissioner was being taken forward.

15. Any other business

- 15.1. There was no any other business.